How tribal sovereignty & self-determination shapes environmental health priorities, practices, partnerships

Presenter Disclosure

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No relationships to disclose
What is Tribal Sovereignty?

- Tribes are independent entities with inherent powers to govern themselves
- Independence of tribes subject to the powers of Congress to regulate and modify the status of the tribes
- In general, power to deal with and regulate tribes is wholly federal
- States excluded from regulating tribes **UNLESS** Congress delegates power to them
- Tribes have **government-to-government relationship** with the US and also with the states.

Tribal Sovereignty

**Origins and Development of Tribal Sovereignty**

- John Marshall, longest serving Chief Justice in Supreme Court
- Judicial review – strike down laws that violate U.S. Constitution
- Decided 3 cases that form basic framework of federal Indian Law called the Marshall Trilogy:
  - Johnson v. M’Intosh (1823)
  - Cherokee Nation v. Georgia (1831)
  - Worcester v. Georgia (1832)
Federal Indian Policy
The Self-Determination Era (1962-Present)

- President Nixon implemented policies supporting:
  - Tribal self-governance
  - Protected land
  - Transferring Indian programs to tribal governments

What does Self-Governance Mean?

- Right to form own governments
- Right to make and enforce own civil and criminal justice systems
  - Major Crimes Act- 14 crimes (felonies)
- Power to tax
- Power to establish membership
- Right to license, zone, and regulate activities
- Power to exclude persons from tribal territories
What this means for EH...

• Enact their own health regulations to protect the health, safety, and welfare of their communities and membership
• Not subject to state public health laws, and tribes can enact stricter or more lenient laws and regulations than those of a state.
• Draft legislation and design priorities and practices that are often influenced by tribal beliefs, traditions and unique needs.

Navajo Nation
Examples Navajo Nation Regulation

- Navajo Nation Environmental Policy Act
- Navajo Nation Clean Water Act
- Surface Water Quality Standards
- Navajo Nation Environmental Response Compensation and Liability Act
- Navajo Oil and Gas Code.

Navajo Nation regulation priorities

In many ways comparable to federal counterparts but focus on cultural practice and historical site preservation

- Navajo Nation Environmental Protection Act
  - Emphasis on preservation of tribe’s cultural and religious sites
  - Trustee of environment for ‘succeeding generations’
- Navajo Nation Clean Water Act—water source
  - Strict water quality restrictions for religious purposes
  - Oil and gas development restricted if it could impact religious site
PARTNERSHIPS:
Multi-tribal Wind Energy Project

- Six SD Lakota/Dakota tribes and Bush Foundation unite
- Tribal lands cover 16% of state
- Could generate 784-megawatts of power (1 mw: 350 homes)
- Aims to alleviate tribes’ struggles: poverty, joblessness and economic development
- Obstacle:
  - Buyers and Transmission Lines
  - Endangerment of certain Eagle species
  - Tribes like solar
Tribal members and tribal organizations are creating grass roots movements around environmental health in efforts to protect Mother Earth
Lakota Solar Enterprises

Lakota Solar Enterprises (LSE), located on the Pine Ridge Reservation in South Dakota, is one of the nation's first 100% Native American-owned and operated renewable energy companies. Founded in 2006 by Pine Ridge resident Henry Red Cloud, with nonprofit partner Trees, Water & People.

http://www.lakotasolarenterprises.com/index.htm
Lakota Solar Enterprises

- Manufacturing of solar air collectors and complete supplemental solar heating systems
- Employment and green jobs training for American Indians
- Providing affordable heat sources to families living at life-or-death poverty rates
- Reducing the dependency on polluting and destructive sources of energy, with a goal of helping this nation's First Peoples become energy independent

http://www.lakotasolarenterprises.com/index.htm

A solar air heater will save this family 20-30% off their heating bills for decades!
Lakota Solar Enterprises

Students from tribes around the country travel to Pine Ridge to develop their green business plans

"I do not think the measure of a civilization is how tall its buildings of concrete are, but rather how well its people have learned to relate to their environment and fellow man."

~ Chippewa
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